

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

RECEIVED

AUG - 2 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Price Cap Regulation of Local)
Exchange Carriers)
)
Rate of Return Sharing and Lower)
Formula Adjustment)

CC Docket No. 93-179

COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the exchange carrier industry. Its members provide over 98 percent of the exchange carrier-provided access lines in the U.S. USTA has been an active participant in the price cap proceedings before the Commission. Currently, thirteen of USTA's member companies operate under price cap regulation.

In a Notice of Proposed Rulemaking (NPRM) released July 6, 1993 in this docket, the Commission is seeking comment on its proposed rule changes to incorporate "add-back" clearly into the price cap rules for exchange carriers.¹ The Commission is attempting to determine how the sharing and lower end adjustments to the price cap indexes should be reflected in the rate of return used to determine sharing and

¹NPRM at ¶ 4.

No. of Copies rec'd 0+10
List A B C D E

lower formula adjustments in the following year.² This issue has arisen in the context of the annual 1993 access tariff filings.

Notwithstanding how this issue is resolved in the 1993 annual access tariff filing process, ultimately, as it undertakes its comprehensive review of price cap regulation, the Commission should eliminate sharing in order to preserve the full incentives of price cap regulation. When the Commission adopted price cap regulation for exchange carriers, its goals included incentives for increased exchange carrier efficiency and the introduction of new services. The sharing mechanism conflicts with those goals.³

Price regulation gives exchange carriers the added incentives to increase efficiency and invest in the infrastructure because they have the opportunity to maximize the return on shareholder equity over the long run. Sharing reduces this incentive as it requires exchange carriers to forego a share of earnings if prescribed levels are exceeded.

²Id. at ¶ 3.

³See, USTA Interstate Access Reform Proposal, January 12, 1993 at p. 27, as filed with USTA Reply Comments in Transport Rate Structure and Pricing, CC Docket No. 91-213, on March 19, 1993 and with USTA Reply Comments in Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Phase I, on February 19, 1993.

Deployment of new technology carries with it increased risk and uncertainty. Exchange carriers would be more likely to undertake that risk if sharing were eliminated and if they were able to realize a higher return on successful, new investment.

Commissioner Barrett, in a 1992 address before the Florida Economic Club, identified some concerns that were apparent even then with respect to modification of the current price cap rules. Among other things, Barrett noted:

- o It was time to further streamline the process of regulation so it can cope with the new technologies and industry structure.
- o Cost allocations will become increasingly difficult and meaningless in the future given the changes that are taking place, introducing the very real possibility of pricing distortions, and likely resulting disincentives for carriers to invest in and introduce new services.
- o Dropping the rate of return ceiling, while maintaining the ability to regulate prices, can allow services to transition out of regulation smoothly as they become more competitive, and can also allow carriers to have additional pricing freedom.
- o The Commission's historic tie between restricting earnings on investment and insuring "just and

endeavors through higher returns that are commensurate with the increased risk.

- o New forms of competition and new technologies are poised to play a much more significant role in the local exchange industry, with the result that more services will become competitive and able to be regulated by the market.⁴

Tinkering with the price cap rules at this point may be premature given the comprehensive review of price cap regulation which the Commission will soon undertake. At a minimum, if the record developed here supports the Commission's proposed changes, USTA urges the Commission to ensure that any changes which are adopted recognize the trends noted by Commissioner Barrett which will require the Commission to provide greater incentives for price cap carriers and, increasingly, to permit the competitive marketplace to regulate prices and earnings. Any proposed changes to the price cap rules which further limit the narrow incentives currently included in the price cap plan should be rejected.

The direction the Commission should take is to let markets regulate prices and earnings where possible and to ensure that regulatory initiatives provide exchange carriers with increased incentives to deploy new services and

⁴Commissioner Andrew C. Barrett, Federal Communications Commission, Beyond Price Caps: Escaping the Traditional Regulatory Framework, a presentation before the Florida Economic Club, August 27, 1992.

technologies. USTA believes that this should be the objective of the comprehensive review of price cap regulation, and that it should be taken into account in this rulemaking proceeding.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By: Linda Kent /MTM

Martin T. McCue
Vice President and
General Counsel

Linda Kent
Associate General Counsel

900 19th Street, NW, Suite 800
Washington, D. C. 20005-2106
(202) 835-3153

August 2, 1993